

REMARKS

The above-noted amendments are respectfully submitted in response to the official action dated June 17, 2005, in which claims 1-32 have been rejected. These amendments are believed to overcome all of the objections raised by the Examiner, to correct certain typographical errors in the claims, and to place this application in condition for allowance, which action is therefore respectfully solicited.

In view of the nature of the references primarily being relied upon by the Examiner, it is believed that a brief review and consideration of the precise nature of this invention is in order. Most particularly, this invention is specifically directed to a particular problem; namely, the long-distance transport of municipal solid waste in the form of large-scale waste deposits carried by garbage trucks, dump trucks, and the like. As opposed to previous methods used in such municipal situations, in which standard garbage trucks are required to unload garbage at transfer stations for transfer onto tipping floors and the like for compacting and placement into containers, truck trailers, and the like, the present invention permits transfer from these truckloads, which can generally comprise from 12 to 15 tons per truck, directly into containers, which can then be readily shipped by rail and the like. No such system is even suggested by the prior art, and the particular references relied upon by the Examiner exemplify this fact.

The drawings have been objected to because in FIG. 6 reference numeral 6 is said to refer to spacer means, and in FIG. 1 reference numeral 6 is said to refer to hinge means. However, a corrected FIG. 6 in which the reference numeral for the spacer means has now been corrected to read "16" is submitted herewith. It is believed that this correction clearly obviates this objection.

The specification has been objected to on the basis that reference numeral 12 refers to multiple structural elements; namely, once on page 19, line 21, and once at page 20, line 9. However, in view of the above-noted amendments to the specification, this objection has also been clearly obviated.

Claims 1 and 2 have been objected to based on certain informalities. The Examiner has specifically objected to the language "can be" or "to provide" in claims 1 and 2, as rendering the claims indefinite. However, the amendments to these claims are also believed to clearly obviate this rejection, and withdrawal of this rejection is therefore respectfully solicited.

Claims 2-4, 7, 16, 22, 23, 29-30, and 32 have been rejected under 35 U.S.C. § 112, second paragraph. The Examiner has made specific objections to the "means" language of these claims, as well as to several other elements therein. However, in view of the above-noted amendments to these claims, it is respectfully submitted that these rejections have now also been clearly obviated, and their withdrawal is also respectfully solicited.

Claims 1-2, 4-8, 21-22, 24-26, and 30-32 have been rejected as being anticipated by Harza under 35 U.S.C. § 102(b). The Examiner contends that Harza discloses apparatus 160 comprising frame 164 including frame walls 164, removable container 22, and container removal means 75, 102, and 104. The Examiner then specifies other portions of Harza with respect to the dependent claims herein. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

It is initially noted that Harza itself is in no way, shape or form directed to the problems solved by the present invention; namely, the direct placement of truckloads of refuse

material into containers for transportation thereof. To the contrary, Harza is specifically directed to the handling of garbage on a single-building (i.e., a small waste generation) basis prior to collection by garbage trucks and the like. It is downstream of this process, when those very trucks which collect the material from local or residential users, such as those employing the Harza device, that those trucks would be unloaded in accordance with the method of the present invention.

In particular, Harza discloses apparatus which includes a first unit comprising a compressor-freezer assembly for receiving refuse which is moistened, compressed and frozen into dense pellets 16, and a transfer assembly 18, into a second unit, namely a storage-freezer assembly 22, for maintaining these pellets in a frozen condition until they are collected by a garbage truck or the like. The Examiner has specifically referred to FIGS. 6 and 7 of Harza because in this case the assembly 22 is maintained in a shallow well below ground.

The differences between Harza and the present invention are far more than mere differences in size, although the differences in size are certainly significant. Indeed, the system disclosed in Harza could not possibly be utilized as apparatus with a container that can be loaded with waste material "directly from a truck." It is neither designed nor equipped to deal with such a situation. In addition, in the embodiment shown in FIGS. 6 and 7, and particularly because the storage-freezer assembly 22 itself is a freezer and must be obtained in a closed configuration, the apparatus for transferring pellets 16 into the assembly 22 requires a "trapdoor" for permitting entry of the pellets. Thus, in FIG. 6, the pellets 16 traveling along transfer conveyance housing 130 must pass through trapdoor 68 in order to enter

freezer assembly 22. In the embodiment shown in FIG. 7, without a transfer housing, the pellets are transferred from trapdoor 162 in housing 14 onto guide member 168 and finally through trapdoor 166, which is a portion of the upper lid of the freezer assembly 22.

In accordance with the present invention, however, and in order to be able to accommodate the size and nature of the invention in which the waste material is being unloaded directly from a truck, the claims now require that the container be loaded with waste material through substantially the entire area of the upper end of the container. Obviously, this is necessary, as can be seen in FIGS. 1 and 1A hereof in order to be able to accept the waste material from a dump truck, garbage truck, or the like. Harza simply fails to suggest such an apparatus.

The amounts of waste materials which are anticipated to be handled by Harza are indeed quite small. They are relatively small supplies of garbage from a single building, and in the specification of Harza itself it is stated that a fully loaded storage container, including the container itself, would weigh 2000 pounds, at best. This can be compared, for example, to the truckloads of the present invention, which generally comprise from 12 to 15 tons per load, and which could not be handled in the manner of Harza.

In addition, because of the small amounts of pelletized material intended to be handled by Harza, there is no need for the patentee to be concerned with the need for any support for the container itself in order to prevent it from being damaged. Thus, Harza is not concerned with this, and indeed most of the embodiments in Harza, such as the principal embodiment shown in FIG. 1, do not provide any support

whatsoever for the container 22, as would be expected. It is therefore respectfully submitted that the claims now set forth in this application clearly and explicitly distinguish over Harza, including claim 1 herein.

As for the dependent claims, the following comments can be made:

Claim 2 requires that the wall be in direct contact with the container to structurally support the container during loading. This, of course, is yet another important limitation which distinguishes over Harza, since it is highly important to do so when dealing with large amounts of waste material in the size of a truckload. The Examiner refers in this regard to wall means 16 in direct contact with container 22. Presumably, this refers to FIG. 7. However, there is no discussion whatsoever of such "direct contact" in Harza. To the contrary, "direct contact" would be impossible in the case of Harza's device, and the drawings definitely show a space between the container and the wall itself. This would in fact be necessary in Harza's invention, in order to be able to place and remove the container in the first instance.

Turning to claim 4, Harza does not, contrary to the Examiner's position, provide the required spacer means for filling the space between the frame and the removable container. The Examiner refers to the legs on assembly 22 which, in contrast to the required spacer means of the present invention, separate the wall from the container and provide a space therebetween. These alleged "spacer means" do not substantially fill the entire space between the frame and the movable container, as is shown, for example, in FIG. 10 hereof.

As for claims such as claim 7, applicant strongly disputes the Examiner's contention that Harza shows in any

embodiment a wall means 164 comprising angled wall 164. This is simply not the case, as can be clearly seen in FIG. 7 where the wall and the container itself are essentially parallel to each other, with a clearly defined space therebetween.

Turning to claim 21, it is clear that Harza does not disclose the required spill skirt thereof. The spill skirt shown in the present invention surrounds the opening and permits a truckload of material to be funneled into the container. The Examiner, on the other hand, has referred to trapdoor 166 and guide member 168 attached to the assembly 22. The guide member 168 is merely intended to accept the pellet 16 from the freezer assembly 12, and is located at a single location. It therefore cannot comprise a skirt as required by claim 21 which would assist in loading the container from a truck.

Particular reference should also be made to claim 30, which requires a ramp for permitting a truck to drive to the top of the frame for unloading waste material. The Examiner in this regard has referred solely to frame 164 as being above ground level, and allegedly disclosing frame ramp means 162. However, this trapdoor 162 from the compressor-freezer assembly 12 cannot be considered to correspond to the claimed ramp for permitting a truck to drive to the top of the frame for unloading waste material. It simply cannot perform that function. Indeed, it is not even accessible for such use, but only opens to unload a pellet 16 from unit 12.

Finally, claim 32 requires a material handler to remove excess material from the container and transfer it to another container. The Examiner, on the other hand, has simply referred to crane hoist 102 on truck 100 shown in FIG. 3. This is merely for lifting the container itself, and does not relate to the limitations of claim 32.

It is therefore again submitted that all of these claims are now clearly patentable over Harza, and reconsideration and allowance of these claims is therefore respectfully solicited.

Claims 1-14 have been rejected as being unpatentable over Harza under 35 U.S.C. § 103(a). The Examiner contends that Harza discloses a container, but admittedly not one of the height and volume requirements of these claims. Harza is said to teach varying container size based on monthly or daily material accumulations, and it is therefore said to be obvious to modify Harza's container to include the claimed sizes and to conform to a residential or commercial application. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

Applicant, of course, repeats all of his above-noted contentions with respect to the clear deficiencies of the Harza reference. Applicant has, in fact, emphasized in detail the differences between the environment of Harza and that of the present invention, and the size and volume of the containers as specified in claims 10-14 exemplify the significant differences between Harza and the presently claimed invention. As has been stressed above, it would hardly be possible to redesign Harza to be useful in connection with truckload sizes of waste material, since it does not have the means nor the intention to do so. It is, in fact, only in light of applicant's disclosure that one would even consider attempting to somehow reconfigure and modify Harza to accomplish the results which are achievable in accordance with the present invention. This simply is not warranted by the prior art standing on its own. It is therefore

respectfully submitted that these claims are also clearly patentable over Harza.

Claims 3 and 27 have been rejected as being unpatentable over Harza in view of Yamamoto under 35 U.S.C. § 103(a). It is admitted that Harza does not disclose movable walls. Yamamoto is said to disclose a wall 13 comprising two movable walls 15, and is said to teach actuating movable walls 15 to urge side and bottom wall 13 toward a container 4 to compensate for changes in container size brought on by temperature change. It is thus said to be obvious to modify the walls of Harza to include movable walls as per Yamamoto such that side and bottom wall means may compensate for changes in container size. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

Applicant once again repeats all of his above-noted contentions with respect to the clear deficiencies of the Harza reference. These deficiencies, particularly in light of the limitations in claims 23 and 27, are hardly overcome by the citation of Yamamoto. The Yamamoto reference is quite unlike either the present invention or Harza. It is directed to a low temperature, liquefied gas tank for containing natural gas and the like. The purpose of this invention is to construct such a gas tank of a membrane type so that the inner vessel is subject to more favorable stress in low temperature loaded conditions without using corrugations or convex or concave portions. Thus, the portion of Yamamoto referred to by the Examiner includes an inner hull with a heat insulating layer 3 surrounding first and second inner vessels 4 and 5. The elements the Examiner refers to as "movable walls" are jacks 15. These are intended to support the tank and comprise members such as oil hydraulic jacks mounted in the space to form the insulating layer 3. Not

only does it not correspond to the claimed movable walls of the present invention, but there is no reason whatsoever to even attempt to combine this reference with Harza or to employ it in a system such as that of the present invention. The Examiner has clearly engaged in hindsight reconstruction of the prior art without any motivation to do so.

Referring, for example, to the case of *In re Fritch*,  
23 U.S.P.Q.2d 1780 (C.A.F.C. 1992), the court stated at  
page 1783:

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under § 103 teachings of references can be combined only if there is some suggestion or incentive to do so. Although couched in terms of combining teachings found in the prior art, the same inquiry must be carried out in the context of a purported obvious "modification" of the prior art. The mere fact that the prior art may be modified in the manner suggested by the examiner does not make the modification obvious unless the prior art suggested the desirability of modification. . . . It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosure in the prior art to deprecate the claimed invention." (Underlining added for emphasis.)

While it is highly questionable whether this prior art could be combined in the first place, it is unquestionable that there is no motivation to do so. Therefore, withdrawal of this rejection is respectfully solicited.

Claims 9 and 23 have been rejected as being unpatentable over Harza in view of Felts under 35 U.S.C. § 103. After admitting that Harza does not disclose the tire stop required by these claims, the Examiner contends that Felts

teaches a frame 15 including frame walls 14-21, removable container TT and container removal means TT, and time stop means 47 extending from a spill skirt means top 19, 37 to stop a reversing vehicle prior to dumping into a below ground 12 removable container TT. It is thus said to be obvious to modify Harza to include tire stop means as per the teachings of Felts, to stop a reversing vehicle prior to dumping. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

Applicant once again repeats his position with respect to the clear deficiencies of Harza. Once again, any attempt to combine Harza with Felts is not deemed appropriate nor supportable. Indeed, Felts is directed to a hopper assembly, which at least in this case is directed to the handling of refuse. In case of Felts, however, a transfer station is referred to for the dumping of refuse from the collecting vehicle into hoppers for holding until transfer vehicles are available. While it is clear that this invention does not relate to the specific limitations of claims 9 and 23, the Examiner's position relates to the fact that stop means 47 are provided, in this case for preventing the collecting truck CT from backing up too far. Merely selecting this element from Felts, however, without any reason to combine this patent with Harza, does not provide any true basis for alleging obviousness. It is therefore respectfully submitted that these claims are also patentable over the art, and withdrawal of this rejection is respectfully solicited.

Claim 15 has been rejected as being unpatentable over Harza in view of Erickson *et al.* under 35 U.S.C. § 103(a). After admitting that Harza does not disclose a scale, Erickson is said to disclose a scale 40 at the lower end of frame 39 for safety improvement for electronic weight determination. It is thus said to be obvious to modify the Harza apparatus to include

a scale as per the teachings of Erickson to electronically determine a loaded container weight and destination prior to movement by container removal means. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

After again repeating the clear deficiencies of Harza, once again the Erickson reference is combined solely for the purpose of selecting elements from that invention without any motivation for doing so. Erickson, in fact, discloses a fresh catalyst container for use in connection with a hydrotreating unit. The specific intention of this patent thus does include a system for electronically detecting the weight of the fresh catalyst container and comparing that weight with the previously inputted weight of a fully loaded container of fresh demetalation catalyst and a fully loaded container of fresh desulfurization catalyst to determine the type of fresh catalyst loaded in the container. (Col.6, 11.16-32.) Applicant, however, does not claim to have discovered the use of a scale, but it is only in the context of the present invention in connection with the required elements of claims 1 *et seq.* that constitutes the further inventive contributions of applicant which are nowhere suggested by this prior art. Once again, hindsight reconstruction of these references is not a substitute for an actual teaching in the art.

Claims 16-19 have been rejected as being unpatentable over Harza in view of Mirowsky *et al.* under 35 U.S.C. § 103(a). After admitting that Harza does not disclose a perforated pipe air plenum, Mirowsky is said to disclose an air plenum 237 comprising perforated pipe at a frame upper end to run around the container 200. Mirowsky is thus said to teach an air plenum for waste treatment systems with odor problems, and it is said to be obvious to modify the Harza apparatus to include an air plenum, fan and filter as per Mirowsky to treat odor problems

during waste treatment. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

Once again, in addition to the clear deficiencies of Harza, as admitted by the Examiner, we turn to the Mirowsky reference. While dealing with waste treatment, this patent relates to a waste treatment system with ionic oxygen generation. The fact that an air plenum may be used in this system provides no motivation whatsoever to include an air plenum system even in the system of Harza, much less in the context of the present invention. Harza has a sealed freezer container 22 which includes compacted pellets therein. Indeed, no odor problem is said to be encountered in Harza, much less considered treatable therein. It is thus again considered that this combination of references does not suggest the subject matter of the these claims, and withdrawal of this rejection is also respectfully solicited.

Claim 20 has been rejected as being unpatentable over Harza in view of Teeny under 35 U.S.C. § 103(a). After admitting that Harza does not disclose a leachate system, Teeny is said to disclose such a system for conducting contaminated waste product from a container, and it would therefore allegedly be obvious to modify Harza to include a leachate system as per the teachings of Teeny. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

Applicant's position with respect to this combination of references is similar to that discussed above. Applicant does not claim to have invented a leachate system *per se*, but to combine Harza with a patent which simply discloses apparatus for cleaning thermoplastic material for reuse because it includes some type of leachate system simply does not meet the statutory

requirements for alleging obviousness in the first instance. Applicant respectfully requests that this rejection be reconsidered and withdrawn at this time.

Claim 28 has been rejected as being unpatentable over Harza in view of Yamamoto, and further in view of Everard *et al.* under 35 U.S.C. § 103(a). After admitting that Harza does not disclose an inflatable air bladder, Everard is said to disclose an air bladder 10 to support an external load and maintain the air pressure within a chamber at relatively constant levels when the load is applied. It is thus said to be obvious to modify the apparatus of Harza to include an air bladder as per Everard *et al.* to support the external load and maintain the air pressure within the chamber. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

The inflatable air bladder of claim 28 constitutes a movable wall in the context of this invention; namely, for moving the wall means into direct contact with the container of claim 1. Aside from the deficiencies of Harza, Everard relates to an entirely different art; namely, that of constant pressure load bearing air chambers. The Examiner has referred to air bladders, but in the context of Everard *et al.*, elements 10 are simply a number of chambers which are interconnected so that uniform pressure is maintained in each chamber thereof. Thus, the overall invention of Everard itself is in effect to provide an air mattress comprising inflatable membranes, and it is frankly not seen how this disclosure can be combined with Harza in the first place, much less relate to the present invention. It is therefore again requested that this rejection be withdrawn.

Claim 29 has been rejected as being unpatentable over Harza in view of Nijenhuis under 35 U.S.C. § 103(a). After

admitting that Harza does not disclose a spill skirt on three sides, Nijenhuis is referred to as disclosing a spill skirt 5, 14, 17, and 30 along at least three sides overlapping the fill opening. It is thus said to be obvious to modify the spill skirt of Harza to include a spill skirt on three sides as per Nijenhuis to prevent the transfer missing the opening. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

After again repeating the clear deficiencies of Harza, it is clear that the teachings of Nijenhuis are not helpful with regard to claim 29. Nijenhuis, which is directed to a trash removal system including a number of trash silos, does include reference to a pivotable cover 5 at the top of the silo. This cover, however, is only on one side of the silo. The Examiner has referred to the loading surface 7 on which a truck or other vehicle can travel, and pivot axes 16 which project horizontally and perpendicular to the edge 14 of the surface 7, as well as two funnel sheets 17 which pivot about each standing station 2. These funnel sheets are thus disposed vertically and laterally from the silo 3, and their lower edges overlap to avoid trash falling over the edge of the silo. However, there is certainly no reason, other than the present disclosure, why one would attempt to modify the Harza apparatus to include this type of structure. As discussed above, Harza does not even suggest a station which could be filled by a truckload of material. Far from it, it teaches away from any such apparatus to a small unit for use in a single household for collection of trash for ultimate delivery to a dump truck. There once again is simply no reason to combine these references, and doing so would in any

event not suggest the present invention. It is thus again requested that this rejection be withdrawn.

It is therefore respectfully submitted that all of the claims now set forth in this application possess the requisite novelty, utility and unobviousness to warrant their immediate allowance, and such action is therefore respectfully solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

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**IN THE DRAWINGS**

Attachment: Replacement Sheets for FIGS. 4 and 6.